In the High Court of Judicature at Madras

Dated: 21/09/2004

Coram

The Honourable Mr.Justice V.KANAGARAJ

Writ Petition No.14182 of 1997

P.John Samuel ... Petitioner

-Vs-

1. State of Tamilnadu
rep. by its Secretary to Government
Law Department
Secrtariart
Fort St.George
Chennai.9

2. Works Manager
Government Central Press
Chennai.79 ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari as stated therein.

For petitioner : Mr.N.T.Vanamamalai Sr.Counsel
for Mr.K.Srinivasan

For respondents : Mrs.Malarvizhi G.A.

:O R D E R

This writ petition has been filed by the petitioner praying to issue a Writ of Certiorari to call for the records relating to G.O.Ms.No.445 Law Department dated 21.08.1997 and quash the same.

2. From the affidavit filed in support of the above writ petition what comes to be known is that the petitioner got enrolled himself in the year 1968 and his Enrolment Number is 213/68; that after initial practice of three years in the High Court of Madras, he has been practicing in the Courts at Saidapet thereafter; that he was appointed as a Notary and authorised to practice in the city of Madras with effects from 04.12.1990 in G.O.Ms.No.404 Law Department, dated 04.12.1990 and renewed for a further period of three years; the allegation against the petitioner was that two, twenty rupees non judicial stamps each with the signature and seal of the

petitioner-Notary with an expression 'signed before me, were seized from the Document Writer, A.V. Sundarajan, kept for his misuse; that the said acts of the petitioner would amount to infraction of the provisions contained in Rule 11(8) of the Notaries Rules, 1956 and it would also amount to misconduct; the petitioner filed a written statement of defence dated 28.12.1995; that the Government by letter dated 02.04.1996 caused an inquiry to be made into the matter by the competent authority, namely, the Principal Judge, City Civil Court, Chennai; that after holding inquiry in the matter, learned Principal Judge, City Civil Court would submit his report to the Government stating that there is no difficulty in coming to the conclusion that the delinquent Notary had handed over two blank stamp papers for the value of Rs.20/- each with his signature and also affixing the seal of the Notary to the said A.V.Sundararajan, Document Writer, for misuse and it is a violation of rule 11(8) of the Notaries Rules 1956 and the act of the delinquent would amount to misconduct and further held that the charges framed against the delinquent is proved; that based on the report of the competent authority, the Government has cancelled the petitioner's Certificate of Practice as Notary and perpetually de-barred the petitioner from practising as Notary and under Section 10(d)of the Notaries Act, 1952 the petitioner's name has been removed from the Registry of the Notaries and hence, the petitioner has come forward with the above writ petition with a prayer extracted supra.

3. The first respondent filed his counter affidavit and would submit that the petitioner was appointed as 'Notary in the City of Madras, for a period of three years with effects from 04.12.1990 and was issued a certificate of practice; that when the Deputy Superintendent, Special Vigilance Cell, Registration Department, Chennai.28 inspected the office of one A.V.Sundararajan, Document Writer, it was found that certain blank stamp papers bearing the signature and seal of the petitioner, namely Mr.P.John Samuel, Advocate and Notary were kept, so as to misuse the same and the said stamp papers were seized by the Vigilance Cell Officers and were forwarded to the Government for taking appropriate action under professional mis-conduct against the said Notary; that under sub-rule (4A) of rule 13 of the Notaries Rules, 1956, a statement specifying the charge against the petitionerAdvocate was sent to the petitoner Notary to offer his statement of defence in letter NO.18508/Admn/94-2 , Law, dated 31.07.1995; that after examining the defence sent by the petitioner in his letter dated 28.12.1 995, it has been decided that there is prima facie case against the said Notary and the statement of defence together with the complaint made against the said petitioner Notary, were sent to the competent authority, viz., Principal Judge, City Civil Court, Chennai in Government Letter No.18508/Admn/94-5, dated 02.04.1996 for conducting an inquiry into the matter and furnishing his report as required under subrule (5) of the said Rule 13; that in respect of allegation made against the petitioner-Advocate, the competent authority after holding a detailed enquiry, in his letter in Dis.No.5068/97 HC II, dated 29.05.1 997 had reported that there is no difficulty in coming to the conclusion that the delinquent notary had handed over two blank stamp papers to the value of Rs.20/-each with his signature and also the seal of the notary to A.V.Sundarajan, Document Writer, for misuse and it is a violation of rule 11(8) of the Notaries Rules,,1956 and the act of the delinquent would amount to misconduct and the competent authority held that the charge framed against

the delinquent was proved; that therefore, the Government after considering the report of the competent authority, in G.O.ms.No.445, Law, dated 21.08.1997 have ordered cancelling the certificate of practice of the said advocate thus perpetually debarring the said notary from practice and it is only against the said cancellation, the petitioner has filed the above writ petition which has no merits and ultimately on such grounds the first respondent would pray for the dismissal of the above writ petition.

4. Heard both.

5. During arguments, learned counsel appearing on behalf of the petitioner and the learned Government Advocate appearing on behalf of the first respondent would reiterate the facts pleaded by them respectively, in the affidavit filed in support of the writ petition and the counter-affidavit with no law argued nor any new fact or circumstance being brought forth.

6. In consideration of the facts pleaded, having regard to the materials placed on record, upon hearing the learned counsel appearing for both and upon perusing the explanation offered on the part of the petitioner wherein he would submit that on 25.02.1994 when he was traveling in an auto along with his son S.Raja Samuel, Advocate, from Saidapet to High Court, two persons, having come to know that the petitioner was a Notary, stopped the auto in front of the Sub Registrar's Office, Saidapet; that they showed him two twenty rupees stamp papers and wanted to make a declaration before the petitioner, after typing the relevant matters that is the Age declaration for their children in the nearby job typing office, situated adjacent to the Office of the Sub Registrar, since the petitioner was in a hurry, and since they wanted the affidavits immediately, the petitioner dropped his son, to do the needful, along with the parties after signing the papers and affixing petitioner's notary seal and handed over the papers to his son for typing; that when the papers were given for typing, the police came and recovered from them, when the petitioner's son and the parties were away for a tea since there was a long queue for typing and would further submit that the petitioner has not committed any wrong as alleged by the Deputy Superintendent of Police.

7. This Court is of the considered view that the explanation of the petitioner is very strange that he himself would admit that he signed the blank stamp papers; further the competent authority, after considering the facts and the explanation, has submitted his report in accordance with law thereby ordering ; and hence the cancellation of the petitioner's Certificate of Practice as Notary and perpetually debarring him from pracicing as Notary. In these circumstances no other lenient punishment could be thought of than the one inflicted by the competent authority and it is also undesirable for this Court of Review to cause its interference into the punishment inflicted by the Competent Authority without any justification particularly in such matters of misuse of the authority on extraneous considerations and hence the following Order.

In result,

(i) The above writ petition does not merit acceptance but

becomes only liable to be dismissed and is dismissed accordingly.

No cost.

Index : Yes
Internet : Yes
kvsg

To
1. State of Tamilnadu
rep. by its Secretary to Government
Law Department
Secrtariart
Fort St.George
Chennai.9
2. Works Manager
Government Central Press
Chennai.79